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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DAVID AND NATASHA WIT, et al.,
Plaintiffs,

v.

UNITED BEHAVIORAL HEALTH,
Defendant.

Case No. 3:14-CV-02346-JCS
Related Case No. 3:14-CV-05337-JCS

**JOINT CASE MANAGEMENT
STATEMENT**

GARY ALEXANDER, et al.,
Plaintiffs,

v.

UNITED BEHAVIORAL HEALTH,
Defendant.

Next Case Management Conference:

Date: September 10, 2021
Time: 2:00 p.m.
Judge: Hon. Joseph C. Spero

Pursuant to Civil Local Rule 16-10(d) and the Court's April 30, 2021 Civil Minute Order (*Wit* ECF No. 556), Plaintiffs and Defendant, by and through their respective counsel, submit the following Joint Case Management Statement. The parties' last Joint Case Management Statement was filed April 22, 2021. (ECF No. 554.) As set forth in Local Rule 16-10(d), the parties are reporting progress or changes since that statement.

I. Status of Appellate Proceedings

UBH appealed the injunction and final judgment; the appeals were consolidated by the Court of Appeals on February 12, 2021. Briefing on the appeal was completed on June 2, 2021, and the Court of Appeals heard oral argument on August 11, 2021.

II. Status of Remedial Proceedings

a. Reprocessing

On February 12, 2021, the Court of Appeals granted UBH's motion to stay the reprocessing remedy pending appeal; that stay remains in effect.

b. Status of Guideline and Fiduciary Duty Trainings

Pursuant to the Court's April 16, 2021 Order, the deadline for UBH to complete the trainings prescribed in the Remedies Order, ECF 491 at 96-98, is September 30, 2021. *See* Stip. and Order Extending Deadline to Complete Training (ECF No. 553) at 5.

As the parties previously reported, with the Special Master's approval, UBH arranged for the American Society of Addiction Medicine ("ASAM"), the American Association for Community Psychiatry ("AACP"), and the American Academy of Child & Adolescent Psychiatry ("AACAP") to conduct the required trainings on the clinical guidelines. *See* Joint Case Management Stmt. (ECF No. 554) at 2. As of the date of this filing, clinical guideline trainings being offered through ASAM, AACP (LOCUS), and AACAP (CALOCUS-CASII and ECSII) are ongoing. Live trainings offered by ASAM and AACP have been provided on the schedules previously submitted to the Special Master, and will continue through September, with four additional live ASAM trainings and seven additional live LOCUS trainings scheduled for the month of September. UBH anticipates completion of the ASAM and LOCUS trainings by the September 30 deadline.

1 In addition, asynchronous trainings provided by AACAP for the CALOCUS-CASII and
 2 ECSII criteria began in in July after AACAP completed a major system upgrade of its
 3 CALOCUS-CASII and ECSII online training courses in June. Completion rates continued to
 4 grow through August and UBH anticipates completion of the CALOCUS-CASII and ECSII
 5 trainings by the September 30 deadline.

6 With regard to the training on fiduciary duties, the parties conferred and reached
 7 agreement on the majority of the training content, then submitted the remaining disputes to the
 8 Special Master for resolution. The Special Master issued two orders resolving those disputes,
 9 such that the content of the trainings could be finalized. *See* Special Master's Order re Script for
 10 Asynchronous Fiduciary Training (ECF No. 560); Special Master's Order (ECF No. 562). As
 11 previously reported, the majority of UBH's personnel will receive asynchronous training on
 12 fiduciary duties. Per the Special Master's August 26, 2021 Order (ECF No. 562), UBH's Peer
 13 Reviewers and management personnel will receive live training on fiduciary duties, but will not
 14 also complete the asynchronous training. Following the Special Master's June 30, 2021 Order
 15 regarding the content of the asynchronous training, UBH worked with the International
 16 Foundation for Employee Benefit Plans (the "Foundation") to implement the finalized training
 17 content ordered by the Special Master into an online asynchronous training module. The
 18 Foundation completed its development of the online training, and UBH submitted the online
 19 training to the Special Master on August 16 for approval. Upon approval by the Special Master,
 20 UBH anticipates that it will be able to load the training module and begin trainings for its Care
 21 Advocates within a few business days. However, given the limited time left to complete fiduciary
 22 duty trainings before the September 30 deadline, UBH anticipates that an extension of the
 23 deadline for completion of fiduciary duty trainings is needed to shift caseloads for approximately
 24 1,200 Care Advocates and approximately 130 Peer Reviewers and Senior Executives to complete
 25 the training. For that reason, UBH will be requesting a 60-day extension from the Special Master
 26 to complete fiduciary duty trainings only.

27 **c. Injunction Implementation**

28 As the parties previously reported, Plaintiffs identified certain respects in which they

1 contend UBH has not faithfully implemented the Court-ordered criteria as required by Section
2 IV.B.1 of the Remedies Order (ECF No. 491 at 96-98). UBH denied Plaintiffs' assertions.

3 On May 28, 2021, the parties submitted to the Special Master a Joint Submission
4 Regarding Implementation Issues, setting forth the parties' respective positions on the matters
5 Plaintiffs raised. The Special Master held a hearing on implementation issues on August 16,
6 2021, which was also attended by Dr. David Gastfriend, M.D., and Dr. Kenneth Minkoff, M.D.,
7 the psychiatric experts the Special Master retained to assist him on matters relating to the clinical
8 guidelines. Pursuant to the Special Master's request, the parties each made a supplemental
9 submission on August 24, 2021. The Special Master has not yet ruled on the issues presented.

10
11 Respectfully Submitted:

12 Dated: September 3, 2021

ZUCKERMAN SPAEDER LLP

13
14 /s/ Caroline E. Reynolds

15 Caroline E. Reynolds
Adam Abelson

16 PSYCH-APPEAL, INC.
17 Meiram Bendat

18 *Attorneys for Plaintiffs*

19 Dated: September 3, 2021

CROWELL & MORING LLP

20 /s/ Jennifer S. Romano

21 Jennifer S. Romano
22 April N. Ross
Nathaniel P. Bualat
Andrew Holmer

23 *Attorneys for Defendant United Behavioral Health*

24
25 **ATTESTATION**

26 Pursuant to Civil Local Rule 5-1(i)(3) regarding signatures, I attest that concurrence in the
27 filing of this document has been obtained from the other signatories.
28

Dated: September 3, 2021

/s/ Caroline E. Reynolds
Caroline E. Reynolds

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